

ASSEMBLY, No. 2636

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED FEBRUARY 13, 2020

Sponsored by:

Assemblywoman MILA M. JASEY

District 27 (Essex and Morris)

Assemblyman BENJIE E. WIMBERLY

District 35 (Bergen and Passaic)

Assemblywoman ANNETTE CHAPARRO

District 33 (Hudson)

SYNOPSIS

Concerns online marketing of affordable housing units.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 2/13/2020)

1 AN ACT concerning online marketing of affordable housing units
2 and supplementing P.L.1985, c.222 (C.52:27D-301 et al.).

3
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6
7 1. The Legislature finds and declares that:

8 a. In recent years, housing costs in New Jersey have increased
9 dramatically at rates that have outpaced rises in income, making the
10 State the sixth most expensive in the United States and growing the
11 number of renters and homeowners that are housing cost-burdened,
12 spending a disproportionate percentage of their income on high rent
13 or mortgage payments;

14 b. To address the Statewide shortage in affordable housing,
15 tens of thousands of affordable housing units have been and will be
16 made available to very low-, low-, and moderate-income families,
17 the elderly, and persons with disabilities in New Jersey through a
18 wide variety of federal and State programs, including those
19 implemented under the "Fair Housing Act," P.L.1985, c.222
20 (C.52:27D-301 et al.);

21 c. Current rules designed to implement the "Fair Housing Act"
22 require that the developer or administrative agent of the affordable
23 units affirmatively market their units through newspaper and radio
24 or television, but digital marketing is not explicitly required;

25 d. Due to the fragmentation of information consumption and
26 the advent of housing search websites, an increasing number of
27 residents are conducting their housing searches online;

28 e. The manner in which residents are searching for affordable
29 housing and the existing rules for affirmatively marketing
30 affordable units are no longer compatible due to changes in
31 technology and, therefore, necessitate an update to facilitate more
32 effective, streamlined, and fair searches of affordable housing for
33 very low-, low-, and moderate-income residents of New Jersey in
34 the furtherance of the "Fair Housing Act";

35 f. An infrastructure for hosting the increased postings already
36 exists as the New Jersey Housing Resource Center, an affordable
37 housing listing portal overseen by the New Jersey Housing and
38 Mortgage Finance Agency; and

39 g. It is, therefore, in the interest of the residents of the State,
40 and necessary for ensuring that the State's municipalities are
41 compliant with their constitutional responsibility to affirmatively
42 afford a reasonable opportunity for low- and moderate-income
43 families to reside in their boundaries, that the agency, developers,
44 and municipalities comply with P.L. , c. (C.) (pending
45 before the Legislature as this bill).

46
47 2. As used in P.L. , c. (C.) (pending before the
48 Legislature as this bill):

1 “Affirmative marketing plan” means a regional marketing
2 strategy designed to attract buyers, renters, or both to housing units
3 which are being marketed by a developer or sponsor of affordable
4 housing. An affirmative marketing plan shall target eligible persons
5 who are least likely to apply for affordable units in the region.

6 "Agency" means the Housing and Mortgage Finance Agency
7 established pursuant to section 4 of the "New Jersey Housing and
8 Mortgage Finance Agency Law of 1983," P.L.1983, c.530
9 (C.55:14K-4).

10 “Development” means any residential development in which
11 housing for very low-, low-, or moderate-income households is
12 required, including developments receiving credit in a municipal
13 housing element and fair share plan or otherwise approved by the
14 council or court, or in which such housing is required via land use
15 approvals from any municipal land use board.

16

17 3. The agency shall administer the Housing Resource Center,
18 or a designated successor, as an online portal for income-restricted
19 housing listings and searches.

20

21 4. a. The owner, developer, property manager, or other
22 administrative entity required to implement the affirmative
23 marketing plan of a newly constructed development where
24 affordable housing units will be leased or sold for the first time
25 shall be required to post a listing on the Housing Resource Center
26 of the available affordable housing units, on or before the earlier of:
27 (1) at least 60 days prior to conducting a lottery of the applicants; or
28 (2) within one day following when the owner, developer, property
29 manager, or other administrative entity provides any information
30 regarding how to apply for units to prospective applicants or solicits
31 any applications from potential applicants through any other means.
32 The posting shall include, at a minimum, the date that the
33 affordable housing units are expected to be completed, the date of
34 the lottery, the number of affordable housing units, an accounting of
35 how many of the affordable housing units will be available to very
36 low-, low-, and moderate-income households, and each bedroom
37 size that will be available.

38 b. The owner, developer, property manager, or other
39 administrative entity required to implement the affirmative
40 marketing plan of an existing development where one or more
41 affordable housing units becomes available shall post vacancies and
42 waitlist openings for any such unit on the Housing Resource Center
43 and the requirements set forth in the affirmative marketing plan of
44 the municipality where the development is located. The posting
45 shall be made within one day of accepting applications and shall
46 include, at a minimum, the expected date that the affordable
47 housing units will become available, the number of affordable
48 housing units, an accounting of how many of the affordable housing

1 units will be available to very low-, low-, and moderate-income
2 households, and each bedroom size that will be available.

3 c. From time to time the owner, developer, property manager,
4 or administrative entity required to implement the affirmative
5 marketing plan of an existing development may elect to conduct a
6 new lottery to generate or expand the pool of applicants, provided
7 that applicants already on a waitlist for a particular unit type are not
8 displaced from their place in the queue in the lottery. In such cases,
9 the owner, developer, property manager, or other administrative
10 entity shall be required to post a listing on the Housing Resource
11 Center website at least 60 days prior to conducting the lottery of the
12 applicants, or within one day of when the owner, developer,
13 property manager, or other administrative entity provides any
14 information regarding how to apply for the lottery to prospective
15 applicants or solicits any applications from potential applicants
16 through any other means, whichever is earlier.

17 d. The owner, developer, property manager, or other
18 administrative entity shall submit evidence of the listing of their
19 available units and waitlist openings, as required by this section, to
20 the administrative agent for the municipality.

21 e. The administrative agent for the municipality shall ensure
22 compliance with the provisions of this section. The administrative
23 agent shall have the authority to require the owner, developer,
24 property manager, or administrative entity to conduct a new lottery
25 if the provisions of this section are not implemented properly.

26 f. If a municipality fails to comply with the provisions of this
27 section, then the municipality shall be considered non-compliant
28 with the affirmative marketing plan requirements, except in cases in
29 which the municipality takes appropriate corrective action pursuant
30 to this section that such corrective action shall be construed as
31 remaining in compliance.

32
33 5. This act shall take effect on the first day of the fourth month
34 next following the date of enactment.
35
36

37 STATEMENT

38
39 Current rules designed to implement the "Fair Housing Act,"
40 P.L.1985, c.222 (C.52:27D-301 et al.) require that the developer or
41 administrative agent of the affordable units affirmatively market
42 their units through newspaper and radio or television, but digital
43 marketing is not explicitly required.

44 Due to the fragmentation of information consumption and the
45 advent of housing search websites, an increasing number of
46 residents are conducting their housing searches online.

47 An infrastructure for hosting the increased postings already
48 exists as the New Jersey Housing Resource Center, an online

1 affordable housing listing portal overseen by the New Jersey
2 Housing and Mortgage Finance Agency.

3 Under the bill, the owner, developer, property manager, or other
4 administrative entity required to implement the affirmative
5 marketing plan of a newly constructed development where
6 affordable housing units will be leased or sold for the first time is
7 required to post a listing on the Housing Resource Center. All
8 municipalities seeking substantive certification or a judgment of
9 repose of their Housing Element and Fair Share Plan are required to
10 adopt an affirmative marketing plan and to require conformance to
11 that plan from any developer constructing affordable housing within
12 the municipality.

13 The owner, developer, property manager, or other administrative
14 entity required to implement the affirmative marketing plan of an
15 existing development where one or more affordable housing units
16 becomes available is required to post vacancies and waitlist
17 openings for any such unit on the Housing Resource Center. From
18 time to time, a new lottery may be conducted to generate or expand
19 the pool of applicants, provided that applicants already on a waitlist
20 for a particular unit type are not displaced from their place in the
21 queue in the lottery.

22 The owner, developer, property manager, or other administrative
23 entity is required to submit evidence of the listing of their available
24 units and waitlist openings to the administrative agent for the
25 municipality.

26 The bill requires the administrative agent for the municipality to
27 ensure that the provisions of the bill are properly implemented. If a
28 municipality fails to comply with those provisions, then the
29 municipality shall be considered non-compliant with the affirmative
30 marketing plan requirements, except in cases in which the
31 municipality takes appropriate corrective action.